

## MEMORANDUM OF LAW

DATE: October 15, 1985

TO: Bruce Herring, Risk Management Director via  
John Fowler Deputy City Manager

FROM: City Attorney

SUBJECT: Supplemental Pension Savings Plan Compliance  
with Retirement Equity Act

By memorandum dated September 17, 1985, you forwarded to this office a list of seven questions regarding the additional responsibilities you believed were imposed upon the Supplemental Pension Savings Plan Administrator by the Retirement Equity Act (REA). (Public Law 98-397, 98 Stat. 1426.) You requested assistance in order that you could properly comply with the new requirements that primarily concerned "qualified domestic relations orders."

REA amended the Employee Retirement Income Security Act of

1974 (ERISA) (29 U.S.C. Sec. 1001, et seq.). ERISA, by its own terms in 29 U.S.C. Sec. 1003, does not apply to an employee benefit plan if such plan is a governmental plan as defined in 29 U.S.C. Sec. 1002(32). That section defines the term "governmental plan" as "a plan established or maintained for its employees by the government of the United States, by the government of any state or political subdivision thereof, or by any agency or instrumentality of any of the foregoing."

A reading of your questions indicates that they were based on the assumption that the provisions of the Retirement Equity Act applied to the Supplemental Pensions Savings Plan. Based on an analysis of the above statutes we believe that the Supplemental Savings and Pensions Plan of The City of San Diego is "a governmental plan" and is therefore exempt from the requirements

of ERISA. If you have questions concerning your responsibilities under state law to honor a domestic relations order for child or spousal support this office will assist you.

JOHN W. WITT, City Attorney

By

John M. Kaheny

Deputy City Attorney

JMK:mmm:357:(x043.2)

ML-85-56